

Economic Impact Statement

LSA Document #07-231

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

The Indiana Department of Administration (IDOA) was established by law under [IC 4-13-1-2](#) and is empowered to adopt rules pursuant to [IC 4-13-1-7](#). Rules requiring registration of Executive Branch Lobbyists were promulgated pursuant to [IC 4-22-2](#) in 2005 and became effective on January 1, 2006. The rule added [25 IAC 6](#) to the Indiana Administrative Code.

The Commissioner for the IDOA is responsible for administering the executive branch lobbying rule (EBLR), which includes prescribing forms for registration statements, annual reports, and other documents to be filed by executive branch lobbyists who are required to register under the rule. ([25 IAC 6-3-1](#))

Effective July 1, 2006, the IDOA was given statutory authority to establish initial registration fees, annual report filing fees, and fines under [IC 4-2-8](#). Specifically, [IC 4-2-8-4](#) states:

- (a) The department shall charge each executive branch lobbyist an initial registration fee and an annual report filing fee set by rules adopted by the department under [IC 4-22-2](#).
- (b) In the rules adopted under this section, the department may provide for late fees for registration statements and annual reports that are filed late.

[IC 4-22-2.1-5](#) requires state agencies that intend to adopt changes to a rule which will impose requirements or costs on small businesses to prepare a statement that describes the annual economic impact of a rule on all small businesses after the rule is fully implemented.

(1) An estimate of the number of small businesses, classified by industry sector, that will be subject to the proposed rule.

IDOA has no historical data to support an accurate estimate of the number of small businesses subject to the rule. Executive branch lobbyist registration is required only for individuals who lobby the executive branch agencies. Business organizations and entities are not able to register. However, there may be an economic impact on the business organization by virtue of the fact that certain individuals within that business organization may be required to register as executive branch lobbyists. The number of individuals within that business organization who are required to register will depend upon the number of individuals within that business organization who engage in executive branch lobbying activity. The economic impact of the proposed rule change on the business organization will be dependent upon the number of executive branch lobbyists employed by the business organization. There are currently over 1,080 individuals registered as executive branch lobbyists in the state of Indiana.

(2) An estimate of the average annual reporting, record keeping, and other administrative costs that small businesses will incur to comply with the proposed rule.

All executive branch lobbyist reporting is done electronically through the IDOA website. The quantity of reports, filings, and forms that must be filed is minimal. The following information is required to be reported:

Sec. 1. Within fifteen (15) business days of making any contact with an agency regarding an executive branch action, an executive branch lobbyist shall file with the department a signed initial registration statement on a form approved by the commissioner, which shall include the following information:

- (1) The name, business address, telephone number, electronic mail address, and occupation of the executive branch lobbyist.
- (2) The name, business address, telephone number, and electronic mail address of the:
 - (A) executive branch lobbyist's employer; and
 - (B) any real party in interest on whose behalf the executive branch lobbyist is acting, if it is different from the employer.
- (3) A brief description of the subject matter to which the engagement or engagements relate.
- (4) The identity of the agency or agencies to which the engagement or engagements relate.
- (5) A verified statement certifying that in the course of engaging in any executive branch lobbying activity, the executive branch lobbyist has read and will comply with the following:
 - (A) The state statutes governing ethics and conflicts of interest set forth in [IC 4-2-6](#) and rules promulgated thereunder; and
 - (B) The state statutes governing the office of the inspector general and rules promulgated thereunder.

The only other report required by the registration rule is the annual report which requires the same information plus the "total amount of payments received for each engagement during the past year." ([25 IAC 6-2-2\(a\)\(4\)](#)) This information can be filed electronically through the IDOA website. Because of this, the only costs associated with filing the registration form and the annual report are costs associated with maintaining an Internet connection, which many lobbyists already maintain. There is no additional cost associated with the filing of these

forms.

Individual lobbyists will be required to keep track of the time spent on lobbying activity for the purpose of completing the annual report. Many of these types of records are already maintained for other reporting purposes such as tax reporting. IDOA will not propose any specific or standard accounting procedures for tracking this information. Since the method of accounting will be at the discretion of the lobbyist, IDOA is unable to estimate the cost associated with the compliance of these reporting requirements, but we would estimate that the cost would be minimal.

(3) An estimate of the total annual economic impact that compliance with the proposed rule will have on all small businesses subject to the rule. The agency is not required to submit the proposed rule to the Legislative Services Agency for a fiscal analysis under [IC 4-22-2-28](#) unless the estimated economic impact of the rule is greater than \$500,000 on all regulated entities, as set forth in [IC 4-22-2-28](#).

Based upon the limited nature of the information to be reported, the minimal additional efforts which will be required to account for the required information, and the minimal expense associated with the electronic filing of the forms and reports, IDOA is certain that the estimated economic impact of the rule will not be greater than \$500,000 for any regulated entity.

(4) Justification of Cost Imposed by the Rule but Not Required by Statute.

Effective July 1, 2006, the IDOA was given statutory authority to establish initial registration fees and annual report filing fees under [IC 4-2-8](#). Thus, there is a statute authorizing the agency to impose this cost on small businesses. The purpose behind the statute was to allow IDOA to have a mechanism in place to recoup the cost of administering executive branch lobbyist registration.

(5) A regulatory flexibility analysis that considers any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule.

This regulatory scheme is already the least intrusive and least costly method of achieving the purpose of the rule. Under the current administrative scheme, a lobbyist is required to file one "initial registration statement" and an "annual report". An initial registration statement does not expire at the end of the year. Thus, once a lobbyist has registered he will not ever have to reregister or file another initial registration statement unless he or she has terminated his or her registration. However, the annual report must be filed in January of each year for the proceeding year that the person was registered as a lobbyist. Under the current regulatory scheme, there are no fees associated with either the filing of an initial registration statement or an annual report. IDOA has sought to recoup the costs associated with administering this program and the statute has authorized a \$50 initial registration fee that theoretically would only be paid one time, and then a \$50 annual report filing fee, that would only be paid annually. In addition, IDOA would have the ability to levy a \$500 fine against individual lobbyists who do not comply with the terms of [25 IAC 6](#).

The reporting requirements under [25 IAC 6](#) are minimal as they exist, thus different standards are not necessary for "small businesses" than for "large businesses."

The schedules or deadlines for compliance or reporting requirements for executive branch lobbyist registration are minimal, thus there is no need for differentiation between "small" and "large" businesses.

The reporting requirements are minimal, thus consolidation or simplification of those procedures is not possible or necessary. There are no performance standards with respect to complying with this rule except for absolute compliance, thus there is no need for differentiation between "small" and "large" businesses, and there is no additional need to exempt small business from the application of this rule.

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